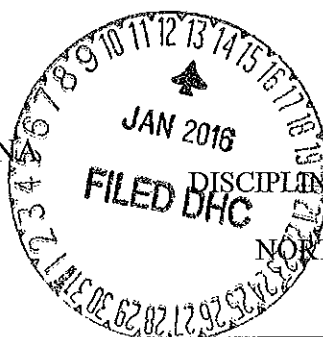


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
16 DHC 4

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

JAMES I. AVERITT, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, James I. Averitt ("Averitt" or "Defendant"), was admitted to the North Carolina State Bar on August 25, 2006, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar, and the Rules of Professional Conduct.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Averitt was engaged in the practice of law as in-house counsel for a corporate entity ("Averitt's employer" or "his employer") in Cary, Wake County, North Carolina.

4. In July 2014, Averitt created a counterfeit letter ("letter") dated July 10, 2014 purporting to be from the Augusta National Golf Club ("ANGC") to the Director of Marketing for Averitt's employer.

5. The letter used ANGC's logo without permission.

6. Averitt also forged on the letter the signature of ANGC's Senior Director of Business Affairs.

7. The letter falsely asserted that Averitt's employer was a sponsor of the 2015 Masters Golf Tournament ("Masters").

8. The letter further falsely stated that, as appreciation for its sponsorship, Averitt's employer was to receive eight (8) four (4)-day badges for admission to the 2015 Masters on April 9-12, 2015.

9. On or about November 2014, Averitt advertised the sale of his employer's non-existent Masters badges on Craigslist.

10. Brad Miller ("Miller") responded to Averitt's Craigslist advertisement and indicated interest in purchasing four of the badges.

11. In response to Miller, Averitt represented himself as legal counsel to his employer and provided Miller with the fraudulent letter from ANGCO he had created.

12. On or about November 6, 2014, Averitt entered into a written sales agreement with Miller agreeing to sell Miller four (4) of the non-existent 2015 Masters badges for \$12,000.

13. Pursuant to Averitt's instructions, Miller forwarded to Averitt \$6,000 via Federal Express ("FedEx"); the balance was to be paid upon Miller's receipt of the badges from Averitt.

14. On or about March 18, 2015, Averitt forwarded to Miller a blank envelope containing no badges via FedEx.

15. On or about March 24, 2015, Averitt mailed Miller a refund of \$6,000 by personal check; however, Averitt's personal account had no funds in it and the check was returned to Miller for insufficient funds.

16. After Miller continued to complain to Averitt about non-payment of his refund, on or about March 26, 2015 Averitt deposited \$6,050 into Miller's bank account.

17. On March 30, 2015, the legal counsel for Averitt's employer interviewed Averitt about the transaction with Miller.

18. Averitt admitted that he had engaged in the fraudulent scheme herein alleged and indicated that he needed the money from the fraudulent Masters badge scheme to settle a personal gambling debt.

19. Averitt's employer terminated Averitt's employment due to his fraudulent Masters badge scheme.

20. After his termination, employees of Averitt's employer found in Averitt's office another sales agreement for four (4) Masters badges, signed by Averitt and Robert G. Barnes ("Barnes") in December 2014.

21. Barnes forwarded a \$6,000 deposit to Averitt for four (4) 2015 Masters badges in early December 2014.

22. After receiving the \$6,000 payment from Barnes, Averitt notified Barnes that the badges would not be available and Averitt reimbursed Barnes via PayPal on or about March 27, 2015 a total of \$6,500.

23. Averitt never had possession or ownership of the 2015 Masters badges that he agreed to sell to Miller and Barnes and for which he sought and received payment from Miller and Barnes.

24. Averitt engaged in false advertising by advertising non-existent 2015 Masters badges for sale on Craigslist.

25. Averitt engaged in trademark infringement by counterfeiting ANG's logo on the July 10, 2014 fraudulent letter without permission.

26. Averitt intentionally made false representations to Miller and Barnes.

27. Averitt deceived Miller and Barnes into agreeing to make and making payments to him for 2015 Masters badges that he never intended to provide to them.

28. Averitt committed the crime of obtaining property by false pretenses.

29. Averitt committed the crime of forgery.

30. Averitt committed the crime of issuing and delivering a worthless check to Miller.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- a) By engaging in the fraudulent Masters badge scheme thereby committing the crimes of obtaining money by false pretenses, forgery, and issuing and delivering a worthless check, Defendant committed criminal acts reflecting adversely on his honesty, trustworthiness and fitness as a lawyer in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of Rule 8.4(c).

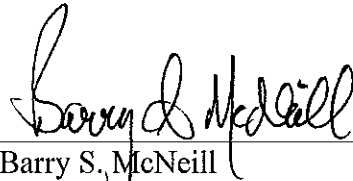
WHEREFORE, Plaintiff prays that:

(1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C.A.C. 1B § .0114), as the evidence on hearing may warrant;

(2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and

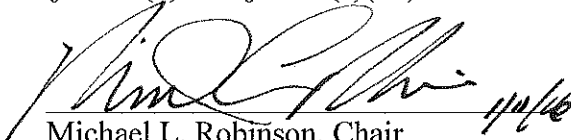
- (3) For such other and further relief as is appropriate.

This the 13<sup>th</sup> day of January 2016.



Barry S. McNeill  
Deputy Counsel  
State Bar No. 8887  
The North Carolina State Bar  
P.O. Box 25908  
Raleigh, NC 27611  
919-828-4620  
Attorney for Plaintiff

Signed pursuant to 27 N.C. Admin. Code 1B  
§ .0113(n) and §.0105(a)(10).



Michael L. Robinson, Chair  
Grievance Committee